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Attorneys for Defendant  
 MARKEL INSURANCE COMPANY

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CITI APARTMENTS, INC.; PRIME  
 APARTMENT PROPERTIES, LLC; PRIME  
 PROPERTIES I, LLC; RMSV BAY CITI  
 PROPERTIES I DE, LLC; RMSV BAY CITI  
 PROPERTIES I, LLC; 124 MASON, DE,  
 LLC; TROPHY PROPERTIES, VI, LLC;  
 LRL CITI PROPERTIES I DE, LLC;  
 FRANK LEMBI; WALTER LEMBI;  
 ANDREW J. HAWKINS,

Plaintiffs,

v.

MARKEL INSURANCE COMPANY; and  
 DOES 1 through 100, inclusive,

Defendants.

CITI APARTMENTS, INC., et al.

Plaintiffs,

v.

No. C 06 05752 CW  
 No. C 06-7086 CW

**STIPULATION TO DISMISS THE  
 FIRST AMENDED COMPLAINT AND  
 REQUEST FOR ENTRY OF  
 JUDGMENT ON THE JUNE 11, 2007  
 ORDER RE THE MOTIONS FOR  
 SUMMARY JUDGMENT; ORDER**

Complaint Filed: August 21, 2006

CMC Date: October 23, 2007  
 Time: 2:00 P.M.  
 Dept.: Courtroom 2  
 Judge: Hon. Claudia Wilken

MARKEL INSURANCE COMPANY; and  
DOES 1 through 100 inclusive,  
  
Defendants.

Plaintiffs CITI APARTMENTS, INC.; PRIME APARTMENT PROPERTIES, LLC;  
PRIME APARTMENT PROPERTIES I, LLC; RMSV BAY CITI PROPERTIES I DE, LLC;  
RMSV BAY CITI PROPERTIES I, LLC; 124 MASON, DE, LLC; TROPHY PROPERTIES,  
VI, LLC; LRL CITI PROPERTIES I DE, LLC; TROPHY PROPERTIES IV, DE LLC;  
TROPHY PROPERTIES V, LLC; NOB HILL TOWERS DE LLC; BAY CITI PROPERTIES,  
DE LLC; CITI PROPERTIES DE,LLC; LSL PROPERTY HOLDINGS, LLC; TROPHY  
PROPERTIES LLC; ALAMO CITY PROPERTIES, DE, LLC; SKYLINE REALTY, INC.;  
FRANK LEMBI; WALTER LEMBI; and ANDREW J. HAWKINS (“Plaintiffs”) and Defendant  
MARKEL INSURANCE COMPANY (“Markel”), by and through their respective attorneys of  
record, hereby stipulate to the dismissal of Plaintiffs’ First Amended Complaint, which is the  
only outstanding pleading, and request that the Court dismiss that complaint and enter judgment  
on its June 11, 2007, Order granting Markel’s Motion for Summary Judgment on the initial  
complaint. Markel is represented by Susan E. Firtch of Burnham | Brown. Plaintiffs are  
represented by Guy O. Kornblum of Kornblum & Associates.

The request and stipulation are based on the following grounds:

1. This was an insurance coverage dispute concerning the right to independent counsel (sometimes referred to as “Cumis” counsel) under California law.
2. The parties filed cross-motions for summary judgment/adjudication concerning the right to independent counsel. By Order dated June 11, 2007, this Court granted Markel’s motion for summary judgment, denied Plaintiffs’ cross-motion, and granted Plaintiffs’ motion for leave to file a first amended complaint to assert new claims.
3. Plaintiffs filed their first amended complaint. Markel filed a motion to dismiss pursuant to F.R.C.P. 12(b)(1) and 12(b)(6). At that time, the motion hearing/CMC was set for August 23, 2007.

1           4.       Prior to the hearing date, the parties participated in mediation with Judge Rebecca  
2 Westerfield (ret.) on July 26, 2007, and were able to reach an agreement in principle.  
3 Thereafter, pursuant to Stipulation and Order of this Court, the parties continued the hearing and  
4 CMC date until the final written settlement agreement could be executed.

5           5.       The written settlement agreement has now been executed, and Markel's motion to  
6 dismiss has been taken off calendar.

7           6.       Pursuant to the settlement agreement, all that remains to be done in this case is:

8               a.       The First Amended Complaint needs to be dismissed without prejudice;  
9 and

10              b.       Judgment needs to be entered on the Court's June 11, 2007, Order  
11 granting Markel's motion for summary judgment and denying Plaintiffs'  
12 cross motion.

13           Therefore, the Parties hereby stipulate that the First Amended Complaint be dismissed  
14 and respectfully request that the Court dismiss that Complaint and enter Judgment on its June 11  
15 Order.

16 DATED: October 10, 2007

/s/ Susan E. Firtch

SUSAN E. FIRTCH  
BURNHAM BROWN  
Attorneys for Defendant  
MARKEL INSURANCE COMPANY

20 DATED: October 10, 2007

/s/ Guy Kornblum

GUY KORNBLUM  
GUY KORNBLUM & ASSOCIATES  
Attorneys for Plaintiffs  
CITI APARTMENTS, INC.; PRIME  
APARTMENT PROPERTIES, LLC; PRIME  
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PROPERTIES I, LLC; 124 MASON, DE, LLC;  
TROPHY PROPERTIES, VI, LLC; LRL CITI  
PROPERTIES I DE, LLC; FRANK LEMBI;  
WALTER LEMBI; ANDREW J. HAWKINS

**ORDER**

The Court hereby orders that:

1. Plaintiffs' First Amended Complaint is dismissed without prejudice, pursuant to the parties' agreement.

2. The Court's June 11, 2007, Order Granting Markel's Motion for Summary Judgment and Denying Plaintiffs' Cross-Motion is a final order, and judgment shall be entered on that Order.

DATED: 10/25/07



Hon. Claudia Wilken

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